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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/712,718

11/13/2003

Jamal Benbrahim

IGT1P487/P000733-001

9284

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12/03/2009

Weaver Austin Villeneuve & Sampson LLP - IGT

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EXAMINER

JONES, MARCUS D

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

12/03/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@wavsip.com

Office Action Summary	Application No. 10/712,718	Applicant(s) BENBRAHIM ET AL.	
	Examiner Marcus D. Jones	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-16, 19-28 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-16, 19-28 and 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>IDS(31 August 2009)</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed 31 August 2009 in response to the previous Non-Final Office Action (9 June 2009) is acknowledged and has been entered.

Claims 1-5, 8-16, 19-28, and 31-36 are currently pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-5, 8-16, 19-28, and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrow et al. (US PGPub 2004/0054952), and further in view of Sarbin et al. (US 5,179,517).**

In reference to claims 1, 12, 23, 33, and 36, Morrow discloses: A gaming apparatus, comprising: a display unit that is capable of generating video images (Figure

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4); a value input device (Figure 4, pg 7, par 57); a storage device adapted to read from and write to a removable storage memory within said gaming apparatus that is removable from said gaming apparatus (claims 100 and 106, and pg 2, par 13); a controller operatively coupled to said display unit, said value input device and storage device said controller comprising a processor and a memory operatively coupled to said processor (pg 7, par 56-59); said controller being programmed to directly store data regarding said gaming apparatus on said removable storage memory that is different from the memory coupled to the processor (claims 100 and 106, and pg 2, par 13, pg 7, par 56-61); The removable storage memory is a persistent storage media as shown in par 12. There is no requirement for the removable storage memory to be the same as the system's memory; the memory only needs to be "a persistent memory." The persistent memory does not have to be the system's memory (par 58). That is, Morrow assigns no criticality to data, in this instance the recorded logged events, to being stored in the system memory with the exception of the operating system, such that any persistent memory will perform equally as well in storing the recorded logs.

Furthermore, it would only involve routine skill in the art to store the log on any of the persistent memories disclosed in paragraph 13. Thus, removing the persistent memory in which the logs and messages are stored will not affect the operation of the system.

said gaming apparatus comprises crash data information selected by a casino operator, said crash data information resulting from a gaming apparatus failure. Since operating system, application system, mechanical and electrical components are part of the gaming systems, the Examiner broadly interprets the operating system failure,

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application software failure, a mechanical and electrical failure/malfunction as error events that Morrow refers to as system event (pg 7, par 57 and pg 8, par 61). Morrow does not explicitly disclose allowing a person to make a wager, a controller programmed to cause a video image representing a casino game or a value payout.

Sarbin teaches a gaming machine comprising a data transfer system that operates by collecting data (such as game machine malfunction data) from game machines and transferring said data to a portable memory medium such as a smart card (Abstract). Sarbin further teaches accepting a wager in a slot machine on a winning outcome and a wide variety of other games including video poker (col 3, ln 35-49).

Morrow discloses that the invention is applicable to a casino type environment (see Figure 4 and pg 1, par 3). It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Morrow in view of Sarbin in a casino environment to collect gaming machine diagnostic data for maintenance and system analysis reasons.

In reference to claims 2, 3, 4, 5, 13, 14, 15, 16, 24, 25, 26, 27, 28 and 34, Morrow and Sarbin disclose the invention substantially as claimed. Morrow further discloses that the removable storage device (persistent memory) could either be a type of DVD, CD, floppy, removable hard disk, zip disk, flash memory or hard card device (pg 2, par 13).

In reference to claims 8, 9, 10, 11, 19, 20, 21, 22, 31, and 32, Morrow and Sarbin disclose the invention substantially as claimed. Morrow further discloses storing the

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pre-selected gaming apparatus data into a battery backed memory (pg 2, par 11).

Morrow also discloses that said memory coupled to the processor includes a transferable portion for storing said information regarding said gaming apparatus, and wherein said controller is programmed to transfer said transferable portion from said memory operatively couple to said processor to said removable storage memory (claim 99). Morrow further discloses that said system comprising a plurality of gaming apparatuses being interconnected to form a network of gaming apparatuses (pg 7, par 54).

In reference to claims 25 and 35, Morrow and Sardin disclose the invention substantially as claimed except allowing a user to select a number of pay lines. However, a player of a slot machine is usually allowed to select a number of pay lines based on the amount of coins wagered. For example, see Achilles (US 5,725,428; col 5, ln 19-21). It would have been obvious to a person having ordinary skill in the art at the time of the invention to allow a user to select a number of pay lines during a play of a slot machine.

Response to Arguments

4. Applicant's arguments have been fully considered but they are not persuasive. With respect to claims 1, 12, 23, 33 and 36, the Applicant submits, "While Morrow discloses removable storage devices 80 and 90, neither of these removable storage devices meets all the requirements of the present claims. The removable storage device 80 contains only update files 82 and may optionally contain verification software

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70.” The Applicant also asserts that “the Examiner is exercising inappropriate hindsight using the teaching of Applicant’s disclosure to arrive at his conclusions.”

5. The Examiner respectfully disagrees.

6. .As discussed above in the rejection of claims 1, 12, 23, 33 and 36, the Examiner asserts that Morrow assigns no criticality to data, in this instance the recorded logged events, to being stored in the system memory with the exception of the operating system, such that any persistent memory will perform equally as well in storing the recorded logs. Furthermore, it would only involve routine skill in the art to store the log on any of the persistent memories disclosed in paragraph 13. The Examiner continues to contend that any viable storage option, as listed in paragraph 13, is usable to store the logged data.

7. The Applicant further submits that “The removable storage memory 80 in Morrow is not one to which a storage device is adapted to write.”

8. The Examiner respectfully disagrees.

9. In response, the Examiner points the Applicant to paragraph 37 of Morrow, in which a CD-RW is listed as a storage option. By its very nature, a CD-RW disc allows both reading and writing to the disc. Morrow also lists a CD-ROM disc, which does not allow both reading and writing to the disc. The Examiner believes that the Applicant relies on this technology to support that Morrow does not allow writing to a removable disc. Subsequently, Morrow allows both reading and writing to CDs at a minimum.

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10. The Applicant also submits with respect to Sarbin that, "All of the data uploaded from the gaming machine to the smart card, other than time and machine ID, is characterized as the "number of" times an identified event occurred."

11. The Examiner respectfully disagrees.

12. The Examiner asserts that the "number of times an identified event occurred" is useful data for diagnosing gaming apparatus failure. In the sense that it may be important to know how many times a coin was stuck in the coin slot (mechanical failure), for instance. However, as discussed above in the rejection of claims 1, 12, 23, 33, and 36, the Examiner broadly interprets the operating system failure, application software failure, a mechanical and electrical failure/malfunction as error events that Morrow refers to as system event (pg 7, par 57 and pg 8, par 61).

The Applicant also asserts that "the program updates on the card (Fig 7) must have been placed there by a more sophisticated process and computer than a gaming machine."

The Examiner would like to point out that at its very basis; a gaming machine is a computer. Morrow discloses an operating system within the gaming machine (see Figure 1, lead line 98). The process to update files need not be more than a simple read or write performed by the operating system.

In response to the Applicant's piecemeal analysis of the references, it has been held that one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references. *In re Keller*, 208 USPQ 871 (CCPA 1981).

The Examiner submits that within the combination of Morrow in view of Sarbin, that the prior art teaches the limitations of claims 1, 12, 23, 33 and 36 as discussed above. Subsequently, this action is made Final.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus D. Jones whose telephone number is (571)270-3773. The examiner can normally be reached on M-F 9-5 EST, Alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcus D. Jones/
Examiner, Art Unit 3714

/John M Hotaling II/
Primary Examiner, Art Unit 3714